

Remarks

Claims 1-42 were pending in the subject application. By this Amendment, the applicants have amended claims 1, 14, 18 and 19, and cancelled claims 12, 13, 15 and 16. Further, claims 20-42 have been cancelled as being directed to non-elected subject matter. Support for the amendments to claims can be found throughout the subject application and claims as originally filed, including, at for example, page 4, line 30 (ratio of solvents), page 6, line 27 (solid carrier), page 5, lines 20-31 (cellulosic fibers and plastic), and previous claim 17 (amorphous silicon dioxide). No new matter has been added by these amendments. Accordingly, claims 1-11, 14 and 17-19 are now before the Examiner for consideration.

The amendments set forth herein should not be interpreted to indicate that the applicant has agreed with, or acquiesced to, the rejections set forth in the outstanding Office Action. The amendments to the claims have been made in an effort to lend greater clarity to the claimed subject matter and to expedite prosecution. Favorable consideration of the claims now presented, in view of the remarks and amendment set forth herein, is earnestly solicited.

Claims 1-4, 6-7 and 9-12 have been rejected under 35 U.S.C. §102(b) as being anticipated by Caselli *et al.* (EP 1146111). The applicant respectfully traverses this ground for rejection because the cited reference does not teach a composition having the advantageous ratio of ingredients as set forth in the claims now presented for review.

In order to anticipate, a single prior art reference must disclose within its four corners, each and every element of the claimed invention. In *Lindemann v. American Hoist and Derrick Co.*, 221 USPQ 481 (Fed. Cir. 1984), the court stated:

Anticipation requires the presence in a single prior art reference, disclosure of each and every element of the claimed invention, arranged as in the claim. *Connell v. Sears Roebuck and Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983); *SSIH Equip. S.A. v. USITC*, 718 F.2d 365, 216 USPQ 678 (Fed. Cir. 1983). In deciding the issue of anticipation, the [examiner] must identify the elements of the claims, determine their meaning in light of the specification and prosecution history, and identify corresponding elements disclosed in the allegedly anticipating reference. *SSIH, supra*; *Kalman [v. Kimberly-Clarke]*, 713 F.2d 760, 218 USPQ 781 (Fed. Cir. 1983)] (emphasis added). 221 USPQ at 485.

The Caselli *et al.* reference does not disclose the ratio of volatile to non-volatile solvent as set forth in the claims as amended herein. Furthermore, the compositions disclosed in Caselli *et al.* are incorporated into a wipe, and there is no disclosure of absorbing the composition onto a carrier as now defined in claim 1.

Accordingly, the applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §102(b) based on Caselli *et al.*

Claims 1 and 6-10 have been rejected under 35 U.S.C. §102(b) as being anticipated by Romano *et al.* (U.S. Patent No. 6,103,683). The applicants respectfully traverse this ground for rejection because the cited reference does not teach a composition having the advantageous ratio of ingredients as set forth in the claims now presented for review.

The Romano *et al.* reference does not disclose the ratio of volatile to non-volatile solvent as set forth in the claims as amended herein. Furthermore, the compositions disclosed in Romano *et al.* are incorporated into a wipe, and there is no disclosure of absorbing the composition onto a carrier as now defined in claim 1.

Accordingly, the applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §102(b) based on Romano *et al.*

Claims 1 and 7-11 have been rejected under 35 U.S.C. §102(b) as being anticipated by McCue *et al.* (U.S. Patent No. 5,403,587). The applicants respectfully traverse this ground for rejection because the cited reference does not teach a composition having the advantageous ratio of ingredients as set forth in the claims now presented for review.

The McCue *et al.* reference does not disclose the ratio of volatile to non-volatile solvent as set forth in the claims as amended herein. Furthermore, the compositions disclosed in McCue *et al.* are incorporated into a wipe, and there is no disclosure of absorbing the composition onto a carrier as now defined in claim 1.

Accordingly, the applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §102(b) based on McCue *et al.*

Claims 13 and 14 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Caselli *et al.* (EP 1146111) in view of Scheuing *et al.* (U.S. Patent Application Publication No. 2003/0220223). The applicants respectfully traverse this ground for rejection because the cited references, either taken alone or in combination, do not teach or suggest the invention as now claimed.

As noted above, the Caselli *et al.* reference does not disclose the ratio of volatile to non-volatile solvent as set forth in the claims as amended herein. Furthermore, the compositions disclosed in Caselli *et al.* are incorporated into a wipe, and there is no disclosure of absorbing the composition onto a carrier as now defined in claim 1.

The prior art compositions sterilize surfaces contaminated with pathogenic bacteria by bringing the compositions into direct contact with the contaminated surface for a short period of time. In contrast, the present invention is advantageous because it provides a sanitizing effect over extended periods of time.

The unique effect of the current applicants' composition is achieved using specific ratios of volatile and non-volatile solvents in combination with one or more essential oils or essential oil components, to provide a vapor effect. The compositions are, therefore, formulated for a very different purpose from those of the prior art. Specifically, the claimed compositions are not intended to be brought into direct contact with a contaminated surface but, rather, to use the vapor effect to achieve substantial reduction in bacterial contamination.

It is well established in the patent law that the mere fact that the purported prior art could have been modified or applied in some manner to yield an applicant's invention does not make the modification or application obvious unless "there was an apparent reason to combine the known elements in the fashion claimed" by the applicant. *KSR International Co. v. Teleflex Inc.*, 550 U.S. \_\_\_\_ (2007). Furthermore, an applicant's invention is not "proved obvious merely by demonstrating that each of its elements was, independently, known in the (purported) prior art." *Id.*

The skilled artisan would have no reason to modify the composition of the prior art to arrive at the claimed compositions since the prior art is only concerned with achieving a short-term effect. Although volatile and non-volatile solvents are known in the art, there is no suggestion that a mixture of solvents is desirable. Paragraph 0020 of Caselli *et al.* mentions that the composition

needs to be contacted with hard surfaces. Therefore, any adaptation of the compositions disclosed in Caselli *et al.* would also be for that intended purpose, i.e. for direct contact with a hard surface to be disinfected. This would not lead to the current invention.

The compositions of Caselli *et al.* are intended to be used in contact with a surface to be disinfected. There would be no reason for the skilled person to use a solid carrier of non-woven material comprising cellulosic fibres and plastic or amorphous silicon dioxide for wiping a surface.

The benefits of using amorphous silicon dioxide or a non-woven material is that they are able to absorb a large amount of the disinfecting mixture, and are therefore very useful in the context of a product that provides a long-lasting evaporative effect.

The intention of the towelettes of Caselli *et al.* is simply to provide a convenient means for contacting the formulation with a surface, and not to absorb the active mixture for subsequent release in a controlled manner. In contrast, the silicon dioxide and non-woven material as specified have been found to be particularly suited for this purpose.

The skilled artisan would have no reason to modify the prior art compositions to arrive at a composition having the specific solvent ratios and solid carrier as now claimed. Accordingly, the applicants respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. §103(a) based on Caselli and Scheuing.

Claims 15 and 18 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Caselli *et al.* (EP 1146111) in view of Sherba *et al.* (U.S. Patent No. 5,149,524). The applicants respectfully traverse this ground for rejection because the cited references, either taken alone or in combination, do not teach or suggest the invention as now claimed.

The shortcomings of the primary Caselli *et al.* reference, as that reference relates to the current invention, have been discussed above. The secondary Sherba *et al.* reference does not cure, or even address, the aforementioned shortcomings of the primary reference.

Accordingly, the applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §103 based on Caselli *et al.* in view of Sherba *et al.*

Claim 16 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Caselli *et al.* (EP 1146111) in view of Ogawa *et al.* (U.S. Patent Application Publication No. 2003/0088025). The

applicants respectfully traverse this ground for rejection because the cited references, either taken alone or in combination, do not teach or suggest the invention as now claimed.

The shortcomings of the primary Caselli *et al.* reference, as that reference relates to the current invention, have been discussed above. The secondary Ogawa *et al.* reference does not cure, or even address, the aforementioned shortcomings of the primary reference.

Accordingly, the applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §103 based on Caselli *et al.* in view of Ogawa *et al.*

Claim 17 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Caselli *et al.* (EP 1146111) in view of Caunt *et al.* (EP 0965541). The applicants respectfully traverse this ground for rejection because the cited references, either taken alone or in combination, do not teach or suggest the invention as now claimed.

The shortcomings of the primary Caselli *et al.* reference, as that reference relates to the current invention, have been discussed above. The secondary Caunt *et al.* reference does not cure, or even address, the aforementioned shortcomings of the primary reference.

Accordingly, the applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §103 based on Caselli *et al.* in view of Caunt *et al.*

Claim 16 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Caselli *et al.* (EP 1146111) in view of Hartman *et al.* (U.S. Patent Application Publication No. 2005/0106121). The applicants respectfully traverse this ground for rejection because the cited references, either taken alone or in combination, do not teach or suggest the invention as now claimed.

The shortcomings of the primary Caselli *et al.* reference, as that reference relates to the current invention, have been discussed above. The secondary Hartman *et al.* reference does not cure, or even address, the aforementioned shortcomings of the primary reference.

Accordingly, the applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §103 based on Caselli *et al.* in view of Hartman *et al.*

Claims 13 and 14 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Romano *et al.* (U.S. Patent No. 6,103,683) in view of Scheuing *et al.* (U.S. Patent Application Publication No. 2003/0220223). The applicants respectfully traverse this ground for rejection

because the cited referencees, either taken alone or in combination, do not to teach or suggest the invention as now claimed.

The shortcomings of the primary Romano *et al.* reference, as that reference relates to the current invention, have been discussed above. The secondary Scheuing *et al.* reference does not cure, or even address, the aforementioned shortcomings of the primary reference.

Accordingly, the applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §103 based on Romano *et al.* in view of Scheuing *et al.*

Claims 15 and 18 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Romano *et al.* (U.S. Patent No. 6,103,683) in view of Sherba *et al.* (U.S. Patent No. 5,149,524). The applicants respectfully traverse this ground for rejection because the cited references, either taken alone or in combination, do not teach or suggest the invention as now claimed.

The shortcomings of the primary Romano *et al.* reference, as that reference relates to the current invention, have been discussed above. The secondary Sherba *et al.* reference does not cure, or even address, the aforementioned shortcomings of the primary reference.

Accordingly, the applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §103 based on Romano *et al.* in view of Sherba *et al.*

Claim 16 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Romano *et al.* (U.S. Patent No. 6,103,683) in view of Ogawa *et al.* (U.S. Patent Application Publication No. 2003/0088025). The applicants respectfully traverse this ground for rejection because the cited references, either taken alone or in combination, do not teach or suggest the invention as now claimed.

The shortcomings of the primary Romano *et al.* reference, as that reference relates to the current invention, have been discussed above. The secondary Ogawa *et al.* reference does not cure, or even address, the aforementioned shortcomings of the primary reference.

Accordingly, the applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §103 based on Romano *et al.* in view of Ogawa *et al.*

Claim 17 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Romano *et al.* (U.S. Patent No. 6,103,683) in view of Caunt *et al.* (EP 0965541). The applicants respectfully traverse this ground for rejection because the cited references, either taken alone or in combination, do not teach or suggest the invention as now claimed.

The shortcomings of the primary Romano *et al.* reference, as that reference relates to the current invention, have been discussed above. The secondary Caunt *et al.* reference does not cure, or even address, the aforementioned shortcomings of the primary reference.

Accordingly, the applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §103 based on Romano *et al.* in view of Caunt *et al.*

Claim 19 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Romano *et al.* (U.S. Patent No. 6,103,683) in view of Hartman *et al.* (U.S. Patent Application Publication No. 2005/0106121). The applicants respectfully traverse this ground for rejection because the cited references, either taken alone or in combination, do not teach or suggest the invention as now claimed.

The shortcomings of the primary Romano *et al.* reference, as that reference relates to the current invention, have been discussed above. The secondary Hartman *et al.* reference does not cure, or even address, the aforementioned shortcomings of the primary reference.

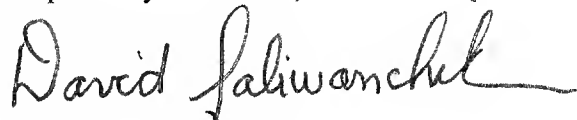
Accordingly, the applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §103 based on Romano *et al.* in view of Hartman *et al.*

In view of the foregoing remarks and the amendments above, the applicants believe that the currently pending claims are in condition for allowance, and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees under 37 CFR §§1.16 or 1.17 as required by this paper to Deposit Account No. 19-0065.

The applicants also invite the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,



David R. Saliwanchik

Patent Attorney

Registration No. 31,794

Phone: 352-375-8100

Fax No.: 352-372-5800

Address: P.O. Box 142950  
Gainesville, FL 32614-2950

DRS/la